

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No.4081/07
Sangram Singh Vs. Girraj Prasad Pitalia &
Ors.

20.08.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri S.N. Kumawat for petitioner.
Shri J.K. Yadav for respondents.

The petitioner has challenged the order passed by the Rajasthan State Cooperative Tribunal dated 17th March, 2007. The Tribunal by that order while setting aside the award passed by the Arbitrator dated 21.10.2005 had declared the private respondent no.1 Girraj Prasad Pitlia as the owner of the disputed plot. While the petitioner has produced the patta issued to him by one Shanti Nagar Grah Nirman Sahakari Samiti, the

respondent possess the patta of Krishnapuri Grih Nirman Sahakari Samiti. In those facts the Arbitrator had directed the parties to approach the Civil Court for determination of their title and right. Learned counsel for the petitioner argued that the Tribunal passed the impugned order without even serving notice on him and his service of the notice was taken to be evaded by publication in the newspaper whereas it would be evident from the entire record which was placed on record that no order was passed by the Tribunal for publication of the notice in newspaper. The learned counsel for the respondents argued that while the registered notices were sent to the petitioner, the notices issued by the Tribunal were also got

published in the newspaper. He could not point out as to by which order of the Tribunal, the notices were permitted to be published in the newspaper. The fact remains that the impugned order has been passed in the absence of the petitioner and that too when admittedly he was in possession of the plot in dispute. It would be therefore appropriate that any order on the merits of the case is passed upon hearing both the petitioner and the respondent no.1. Without therefore expressing any opinion on the merits of the case I deem it appropriate to remit the matter back to the Tribunal by setting aside the order dated 17.3.2007 with direction to the parties to appear before that Tribunal on 5th September, 2007 and with the direction that the

Tribunal there upon hearing both the parties decide the matter afresh within three months thereafter.

The writ petition is accordingly allowed with no order as to costs.

(Mohammad Rafiq), J.

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